vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6106 OF 2005

Krushi Utpanna Bazar Samiti ... Petitioner

V/s.

Maharashtra Rajya Mathadi
Transport & General Kamgar
Union & Ors ... Respondents

Mr.A.S. Peerzada a/w. Mr.B.V. Bukhari for Petitioner
Mr.M.S. Topkar for Respondent No.1
Mr.L.S. Desai i/b Pallavi Divekar for Respondent No.2

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 20, 2005**

P.C.:

. The Petition challenges an interim order directing Respondent No.1 i.e., the Petitioner herein not to provide work to unregistered persons and to provide work to the 19 persons registered with Respondent No.2, i.e., the Nasik Mathadi and Other Manual Workers' Labour Board, Nasik. The grievances of the Petitioner are that (1) it is not the employer of the workmen concerned and therefore the complaint is not maintainable; (2) if licences are not granted to the workmen concerned, an appeal is provided under the Maharashtra Agricultural Produce Market (Regulation) Act, 1963 (for short, APMC Act) and the Rules famed thereunder; (3) before a decision is arrived at as to

whether prima facie at least the Petitioner is the employer of the concerned workmen, no orders could be passed against them.

2. The learned Advocate appearing for Respondent No.2 submits that there are two types of work conducted by the market committee where the concerned workmen were employed for work: (1) where the Mathadi Board considers the petitioner to be the employer of all concerned workmen and (2) where the Mathadi Board considers the individual traders as employers of the workmen. Although this is disputed by the learned Advocate for the Petitioner, this issue will be decided by the Industrial Court when the complaint will be heard finally.

3. The grievance of the workmen is that they are registered workers under the Maharashtra Mathadi, Hamal and other Manual workers (Regulation of Employment and Welfare) Act, 1969. However, licences under section 7 of the APMC Act are not being issued to them by the Petitioner. Their application under section 7 have been decided but no order has been communicated to them, either granting the licence or refusing the same. Mr.Topkar, learned Advocate appearing for the concerned workmen, submits that unless the order is communicated

to the workmen, no appeal can be filed by the workmen.

4. Having heard the learned Advocates for the parties, I am of the view that the following order modifying the interim order of the Industrial Court will meet the ends of justice:

i) The Petitioner will not provide work to any unregistered workman;

ii) The Petitioner will communicate to the concerned workmen whether their licences have been granted or refused under section 7 of the APMC Act. These orders must be communicated within a period of two weeks from today;

iii) The direction of the Industrial Court to provide work to the 19 persons registered with Respondent No.2 need not be implemented if licences under section 7 are not granted to them.

iv) Complaint is expedited.

5. Writ Petition is disposed off in the above

terms.